



FEDERAL LABOR RELATIONS AUTHORITY (FLRA)

[FLRA Docket No. WA-RP-13-0052]

Notice of Opportunity to Submit Amici Curiae Briefs in a Representation Proceeding Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to submit briefs as amici curiae on a significant issue arising in a case pending before the Authority. The Authority is considering this case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101-7135 (the Statute), and its regulations, set forth at 5 CFR part 2422. The issue concerns whether § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals. As this matter is likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amici briefs addressing this question.

DATES: Briefs must be received on or before March 31, 2014.

ADDRESSES: Mail or deliver briefs to Gina K. Grippando, Chief, Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 200, 1400 K Street NW., Washington, DC 20424-0001.

FOR FURTHER INFORMATION CONTACT: Gina K. Grippando, Chief, Case Intake and Publication, Federal Labor Relations Authority, (202) 218-7740.

SUPPLEMENTARY INFORMATION: On February 18, 2014, the Authority granted an application for review of the Regional Director's (RD's) decision and order dismissing the petition in *National Aeronautics & Space Administration, Goddard Space Flight Center, Wallops Island, Virginia*, Case No. WA-RP-13-0052, 67 FLRA 258 (2014) (NASA) (Member DuBester concurring). A summary of the case follows.

1. Background and RD's Decision

An individual (Petitioner) filed a petition for an election to decertify the Exclusive Representative as the labor organization representing certain employees. The Exclusive Representative claimed that the petition was untimely. In this regard, the Exclusive Representative argued that there was a lawful, written collective-bargaining agreement between the Agency and the Exclusive Representative, and that the agreement acted as a bar to the petition because the Petitioner did not file the petition within the open period set forth in § 7111(f)(3) of the Statute.

The RD stated that, in order for a decertification petition to be timely under § 7111(f)(3)(B) of the Statute, it must be filed not more than 105 days and not less than sixty days before the expiration of a collective-bargaining agreement. In addition, she found that § 2422.12(d) of the Authority's Regulations governs a determination as to whether a petition is timely.

The RD determined that there was a collective-bargaining agreement between the Agency and the Exclusive Representative, and that the agreement expired on October 23, 2013. Based on that expiration date, the RD found that the open period for filing the petition ran from July 10, 2013, the 105th day before the agreement expired, to August 26, 2013, the 60th day before the agreement expired. The RD stated that the Petitioner filed his petition on June 17, 2013 – outside this period – and, therefore, that the petition was untimely. Accordingly, she dismissed the petition.

2. Application for Review

The Petitioner filed an application for review of the RD's decision. The Petitioner argued that the Authority should grant his application because the RD's decision raised an issue for which there is an absence of precedent. Specifically, the Petitioner claimed that the Authority has never specifically held that the open period described in § 7111(f)(3) of the Statute applies to decertification petitions filed by individuals. The Petitioner based this claim on the Authority's decision in *90th Regional Support Command, Little Rock, Arkansas*, 56 FLRA 1041 (2000)

(*Support Command*) (Chairman Wasserman concurring), *order granting application for review vacated and application dismissed as moot*, 57 FLRA 31 (2001).

3. Question on Which Briefs Are Solicited

Based on *Support Command*, the Authority found, in *NASA*, that there is an absence of precedent as to whether § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals, and it granted the application for review on this basis. The Authority directed the parties to file briefs addressing the following question:

Do § 7111(f)(3) of the Statute and § 2422.12(d) of the Authority's Regulations apply to decertification petitions filed by individuals?

In answering that question, the parties should address any pertinent considerations of: (1) statutory construction; (2) legislative history; (3) applicable precedent; and (4) policy.

4. Required Format for Briefs

All briefs shall be captioned "*National Aeronautics & Space Administration, Goddard Space Flight Center, Wallops Island, Virginia, Case No. WA-RP-13-0052.*" Briefs shall contain separate, numbered headings for each issue covered. Interested persons must submit an original and four (4) copies of each amicus brief, with any enclosures, on 8 1/2 x 11 inch paper. Briefs must

include a signed and dated statement of service that complies with the Authority's Regulations showing service of one copy of the brief on all counsel of record or other designated representatives, 5 CFR § 2429.27(a) and (c), as well as the Federal Labor Relations Authority Regional Director involved in this case. Accordingly, briefs must be served on: Linda Ledman, Acting Labor Relations Officer, NASA/GSFC, 8800 Greenbelt Road, Greenbelt, MD 20771; Ronald Walsh, Individual, 3196 Windrows Way, Eden, MD 21822; Cathie McQuiston, Deputy General Counsel, American Federation of Government Employees, AFL-CIO, 80 F Street, NW., Washington, DC 20001; and Barbara Kraft, Regional Director, Federal Labor Relations Authority, Washington Regional Office, 1400 K Street, NW., Second Floor, Washington, DC 20424. Interested persons may obtain copies of the Authority's decision granting the application for review in this case on the FLRA's web site, www.flra.gov, or by contacting the Authority's Office of Case Intake and Publication at the address set forth above or at the telephone number below.

Dated: February 19, 2014

Gina K. Grippando
Chief, Case Intake and Publication

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